



Memorandum

AUG 26 1999

Date

From

Bryan B. Mitchell

Principal Deputy Inspector General

Subject

Medicare as a Secondary Payer - Review of the Health Care Financing
Administration's Efforts to Implement the Data Match Project
(A-09-91-00103)

TO

William Toby

Acting Administrator

Health Care Financing Administration

Attached is our management advisory report which presents the results of our review of the Health Care Financing Administration's (HCFA) ongoing implementation of the Data Match project (project). The project requires data matches and employer contacts to identify beneficiaries covered by employer group health plans (EGHP). The objective of the review was to evaluate HCFA's efforts to implement the project which included the monitoring and providing of technical assistance to the contractor, Group Health Incorporated (GHI). Subsequent reviews of the project are planned.

Our review disclosed that HCFA was generally providing adequate supervision and direction to the project. The HCFA was giving the project a high priority and working closely with GHI. However, we found that HCFA needs to address several areas.

Specifically, HCFA needs to (i) establish detailed procedures for the imposition of civil monetary penalties (CMP) and take action on employers that fail to provide the necessary EGHP information, (ii) include certain end stage renal disease (ESRD) beneficiaries who were excluded from the project, (iii) increase the Medicare secondary payer (MSP) savings goals as a result of new beneficiaries identified, (iv) perform the necessary follow-up with employers who certified that they did not offer EGHPs, (v) re-evaluate and adjust as necessary the funding for the recovery of overpayments identified by the project, and (vi) monitor closely the recovery efforts of intermediaries and carriers.

In response to the draft report, HCFA officials generally agreed with our recommendations concerning CMPs and intermediaries' and carriers' MSP savings goals. With regard to CMP, HCFA officials stated that they are discussing their CMP responsibility with the Office of Inspector General.

Concerning MSP savings goals, HCFA officials said that they must wait to receive and verify information from the project before adjusting intermediaries' and carriers' MSP savings goals.

The HCFA disagreed with our recommendation to include in future data matches ESRD beneficiaries with dates of entitlement prior to February 1, 1986. These beneficiaries were excluded from the universe of individuals for whom employers were required to provide information. According to HCFA officials, the decision was made because the retrieval of records for earlier periods was determined to constitute an unacceptable burden for employers, given the small number of ESRD beneficiaries involved.

Because substantial overpayments could have been made, we believe that all ESRD beneficiaries should be included in the project. It is because of the small number of beneficiaries involved that we believe the employers' efforts would not be unduly burdensome.

The HCFA officials "technically disagreed" with the recommendations on employer follow-up, funding, and contractor monitoring. They stated that the technical disagreement occurred because they had already planned a sample review, were in the process of establishing funding needs, and were developing a recovery tracking system, respectively. In our report, we acknowledged HCFA's initial efforts in each of these areas. Our recommendations were intended to build on the efforts that HCFA had in process, and ensure that progress is monitored and tracked through the extended period of the project as provided for in the Omnibus Budget Reconciliation Act of 1990. As summarized below, HCFA's additional actions appear responsive to our recommendations.

Regarding our recommendation to follow-up with employers who certified that they did not offer health plans, HCFA officials stated that they already had planned a sample review. They also stated that if significant discrepancies are found, they will expand their review.

Concerning our recommendation to adjust the funding request, HCFA officials stated that they are in the process of establishing funding needs for the project recoveries as part of their ongoing oversight responsibilities.

With reference to our recommendation to closely monitor recovery efforts of intermediaries and carriers, HCFA officials stated that they are currently developing the project recovery tracking system. This system is intended to track the accomplishments of intermediaries and carriers, including those that did not

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do an adequate job of recovering MSP overpayments in the past. They also stated that the system is part of their ongoing oversight of the project.

Please advise us, within 60 days, of any further actions taken or planned on our recommendations. If you need further information, please call me or have your staff contact George M. Reeb, Assistant Inspector General for Health Care Financing Audits at (410) 966-7104. Copies of this report are being sent to other top Department officials.

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICARE AS A SECONDARY PAYER -
REVIEW OF THE HEALTH CARE
FINANCING ADMINISTRATION'S
EFFORTS TO IMPLEMENT THE DATA
MATCH PROJECT**



AUGUST 1992 A-09-91-00103

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To

William Toby
Acting Administrator
Health Care Financing Administration

This management advisory report presents the results of our review of the Health Care Financing Administration's (HCFA) ongoing implementation of the Data Match project (project). The project requires data matches and employer contacts to identify beneficiaries covered by employer group health plans (EGHP). The objective of the review was to evaluate HCFA's efforts to implement the project which included the monitoring and providing of technical assistance to the contractor, Group Health Incorporated (GHI). Subsequent reviews of the project are planned.

Our review disclosed that HCFA was generally providing adequate supervision and direction to the project. The HCFA was giving the project a high priority and working closely with GHI. However, we found that HCFA needs to address several areas.

Specifically, HCFA needs to (i) establish detailed procedures for the imposition of civil monetary penalties (CMP) and take action on employers that fail to provide the necessary information, (ii) include certain end stage renal disease (ESRD) beneficiaries who were excluded from the project, (iii) increase the Medicare secondary payer (MSP) savings goals as a result of new beneficiaries identified, (iv) perform the necessary follow-up with employers who certified that they did not offer EGHPs, (v) re-evaluate and adjust as necessary the funding for the recovery of overpayments identified by the project, and (vi) monitor closely the recovery efforts of intermediaries and carriers.

BACKGROUND

The project was authorized by section 6202 of the Omnibus Budget Reconciliation Act (OBRA) of 1989, Public Law 101-239, which amended section 1862(b) of the Social Security Act. This provision was later extended through September 30, 1995 by section 4203(a) of OBRA 1990, Public Law 101-508. As authorized, the project will identify and recover overpayments made by Medicare when primary health insurance was available through **EGHPs**. The legislation was enacted because many of the MSP situations go undetected and HCFA estimated that an additional \$600 million to \$1 billion in MSP overpayments could be recovered.

The MSP provisions of OBRA 1989 authorize the exchange of information among the Social Security Administration (SSA), the Internal Revenue Service (IRS), and HCFA. These exchanges (computer data matches) enable the identification of working beneficiaries and/or beneficiaries with working spouses. The MSP provisions also authorize HCFA to contact employers to obtain health coverage information and assess **CMs** against employers that do not provide the requested information.

The HCFA contracted with GHI, a Part B carrier, to carry out a major portion of the project. The GHI is responsible for contacting about one million employers and obtaining EGHP information for about nine million working beneficiaries and/or spouses.

SCOPE OF REVIEW

The results of our review are based primarily on discussions with HCFA and GHI officials and a review of documents provided by them. Our objective was to evaluate HCFA's implementation of the project including its monitoring and providing of technical assistance to GHI. The documents reviewed included operating procedures, status reports, correspondence, and computer program methodology. We made site visits to **HCFA's** offices in Baltimore, Maryland and GHI's offices in New York City, New York.

Our review also included an evaluation of applicable Federal laws, regulations, GHI's contract, and the intermediary and carrier manuals pertaining to Medicare as a secondary payer.

The review was conducted by our Headquarters and Seattle field office staffs during the months of April through September 1991. This report covers our initial assessment of the project. Other reports may be issued as the project progresses. We did not validate the accuracy of the information provided by HCFA and GHI.

RESULTS OF REVIEW

Our review disclosed that HCFA was providing close supervision and direction to the project. The HCFA was giving the project a high priority and working closely with GHI. Initially, delays were encountered in performing the data matches with SSA and IRS which adversely affected the project schedule as originally planned. However, the schedule was adjusted for the delays, and since that time the project is, for the most part, on schedule.

At the time of our field work, GHI was in the process of obtaining EGHP coverage information from employers, by the use of mailed questionnaires and by electronic transmission of information. As of September 30, 1991, GHI had mailed questionnaires to over 130,000 employers requesting health coverage information for about 1.3 million employees. This represented about 18 percent of the employers for which EGHP information was to be obtained via printed questionnaires. The GHI plans to spread the mailing workload over a **52-week** period concluding in the summer of 1992.

The GHI will be obtaining EGHP information electronically from larger employers. As of September 30, 1991, over 2,800 of 5,000 large employers, representing about 1.4 million workers, had agreed to send EGHP information electronically.

Although the project was making progress, we found that HCFA needs to address several areas. These issues are discussed in the following sections.

Civil Monetary Penalties

The HCFA has not developed detailed procedures to properly handle employers that refuse to provide EGHP information. The OBRA 1989 permits assessment of CMP against employers refusing to provide such information. Without employer participation, potential MSP overpayments will not be identified and recovered.

Section 6202 of OBRA 1989 provides that "...an employer (other than a Federal or other government entity) who willfully or repeatedly fails to provide timely and accurate notice...shall be subject to a civil money penalty of not to exceed \$1,000 for each individual with respect to which such an inquiry is made."

The HCFA's contract with GHI requires that mailed questionnaires be sent to employers to obtain health coverage information. If an employer does not respond, GHI must send an initial follow-up letter. If there is still no response, a second follow-up letter must be sent. Employers that fail to respond after the second follow-up letter are to be contacted by telephone. The final step is the assessment of CMP against employers refusing to cooperate.

The project has reached a point where CMP action needs to be taken. A HCFA official stated that some employers have not responded to requests for information, and others have indicated that they will not provide the information. Accordingly, HCFA needs to establish detailed procedures for the imposition of CMP and take action on employers that fail to provide the necessary EGHP information.

ESRD Beneficiaries

The HCFA did not include some working beneficiaries in the initial mailings to employers. We found that HCFA did not include ESRD beneficiaries with dates of entitlement prior to February 1, 1986. As a result, millions of dollars of potential MSP overpayments may not be identified for recovery efforts. A previous Office of Inspector General (OIG) review¹ found that almost half of ESRD beneficiaries with EGHP coverage were not identified by the Medicare program. Based on this review, the OIG projected that Medicare overpayments totaling about \$19 million were made on behalf of ESRD beneficiaries entitled to the Medicare program during Calendar Year 1985.

The initial project included working beneficiaries and/or spouses with earnings in tax years 1987 through 1989. With the exception of ESRD beneficiaries, HCFA is asking employers to provide EGHP coverage information back to the effective dates of the MSP legislation. There were various effective dates for MSP provisions affecting different groups of beneficiaries based on legislation passed during the 1980s. For example, an employer with a working aged beneficiary

¹Medicare as a Secondary Payment Source: End-Stage Renal Disease (OAI-07-86-00092), report issued January 1988.

could be requested to provide EGHP information back to January 1, 1983, the effective date for the initial MSP legislation for aged beneficiaries.

The HCFA did not treat ESRD beneficiaries in a like manner. The effective date of MSP legislation for ESRD beneficiaries was January 1, 1982. However, HCFA excluded from the data match all ESRD beneficiaries with Medicare coverage beginning prior to February 1, 1986. A HCFA official stated that these ESRD beneficiaries were not included because they represented only a small percentage of the total beneficiaries in the project.

Because substantial overpayments could have been made, especially in the early years of the MSP legislation, we believe that all ESRD beneficiaries should be included in the project. Including ESRD beneficiaries in future data matches would not be a significant burden on employers because of the small percentage of beneficiaries involved.

MSP Savings Goals

Despite the identification of new beneficiaries with EGHP coverage, HCFA does not plan to adjust the MSP savings goals established for each intermediary and carrier. By not increasing the savings goals, the Medicare intermediaries and carriers will be able to meet savings goals more easily and may not provide the necessary resources to recover the additional future savings resulting from the project. The HCFA officials stated that they believe the system for monitoring the Medicare intermediaries' and carriers' performance on the project workload is sufficient. They stated that the purposes of the savings goals are to monitor performance and provide an incentive to the intermediaries and carriers. They believe that since a separate tracking system is planned for project recoveries, there is no need to include project recoveries in the savings goals.

Although the recoveries obtained under the project will be separately tracked, many new beneficiaries who are still working and have EGHP coverage will also be identified. The identification of these beneficiaries will result in increased savings to the Medicare intermediaries and carriers in future periods. These savings would be separate and apart from the overpayments made during prior periods that are being tracked by the project. Accordingly, HCFA should increase the MSP savings goals.

Verification of Initial Mailings

Although HCFA plans to take steps to verify the accuracy of employer responses to the initial mailings, referred to as Mailing A, there may be a need for additional steps to identify other employers that offer EGHP coverage.

Mailing A was sent to determine whether or not employers offered EGHP coverage, and to eliminate those employers that did not offer such coverage from future mailings.

The GHI sent Mailing A in March and May 1991. The mailings were sent to about 980,000 employers. Over 180,000 employers responded that they did not offer health plans. If employers stated that they did not offer EGHP coverage, subsequent mailings were not sent. An inaccurate response could mean working beneficiaries with EGHP coverage would not be identified and potential MSP overpayments would be missed.

To verify the accuracy of the responses from the 180,000 employers, HCFA officials stated that they have produced a report identifying the top 1,000 employers (based on the number of workers), that responded they did not offer health plans. From this report, HCFA plans to select a sample of employers. The HCFA plans to send copies of the original responses and certified letters to the sampled employers to have them recertify their responses. In addition, they intend to match all employers who have responded "no" to Mailing A against a Department of Labor file which contains some limited information on employers' health insurance.

We believe that, if the sample of employers shows a significant number of errors in the original employer responses, HCFA should expand the review to include other employers that stated they did not offer health plans.

Funding

Once the significance of the project overpayments is known, HCFA may need to adjust the funding request for the recovery efforts. The HCFA had budgeted \$7 million for Fiscal Year (FY) 1992 and \$6 million for FY 1993 for the project.

It is unknown how many overpayments will be identified and require research and recovery efforts by the intermediaries and carriers. However, previous OIG as well as General Accounting Office (GAO) reviews have shown that, in the past, sufficient funds have not been allocated for overpayment recoveries. As a result, large overpayment backlogs have existed. To help ensure that the same

situation does not occur for this project, once the significance of the overpayments is known, HCFA may need to adjust the funding as appropriate for recovery efforts.

Intermediary/Carrier Recoveries

The HCFA should closely monitor the efforts of intermediaries and carriers in recovering potential overpayments identified under this project. Prior reviews by the OIG and GAO have reported on problems encountered by the intermediaries and carriers in recovering overpayments identified in audits and other special initiatives. For example, a previous OIG **review**² identified numerous problems in a special HCFA recovery initiative. A review by GAO reported on the lack of intermediary follow-up action to collect MSP overpayments specifically identified in a prior OIG **audit**.³

Some of the problems cited in the reports were the establishment of savings goals that were too low to provide necessary incentives, funding reductions for intermediary and carrier MSP activities, and noncompliance with HCFA directives in carrying out recovery initiatives.

The HCFA officials stated that recovery instructions are being reviewed by its Office of General Counsel and Bureau of Policy Development. They further stated that a report will be produced that will track the total potential overpayments identified by region, contractor, insurer, and employer. The report will also track the timeliness of contractor recovery actions.

Based on these reviews, we believe that special efforts should be taken to closely monitor the efforts of the intermediaries and carriers, especially those intermediaries and carriers that did not do an adequate job of recovering MSP overpayments in the past.

²**Medicare as a Secondary Payer - Survey of Contractors' Operations** (A-09-89-00151), report issued November 6, 1990.

³U. S General Accounting Office, **Medicare Incentives Needed to Assure Private Insurers Pay Before Medicare**, **GAO/HRD-89-19**, report issued November 1988.

RECOMMENDATIONS

We recommend that HCFA:

1. Establish detailed procedures for the imposition of CMP and take action on employers that fail to provide the necessary EGHP information.
2. Include in future data matches ESRD beneficiaries with dates of entitlement prior to February 1, 1986.
3. Increase the intermediaries' and carriers' MSP savings goals as a result of the identification of new beneficiaries with EGHP coverage.
4. Perform the necessary follow-up with employers who certified in Mailing A that they did not offer health plans.
5. Adjust the funding request for collection actions, as appropriate, once the significance of the potential overpayments identified by the project is known.
6. Closely monitor the recovery efforts of the intermediaries and carriers, especially those intermediaries and carriers that did not do an adequate job of recovering MSP overpayments in the past.

HCFA Comments and OIG Response

The HCFA officials generally concurred with our recommendations concerning CMP and intermediaries' and carriers' MSP savings goals. With regard to CMP, HCFA officials stated that they are discussing their CMP responsibility with the OIG. Concerning MSP savings goals, HCFA officials said that they must wait to receive and verify information from the project before adjusting intermediaries' and carriers' MSP savings goals.

The HCFA disagreed with our recommendation to include in future data matches ESRD beneficiaries with dates of entitlement prior to February 1, 1986. These beneficiaries were excluded from the universe of individuals for whom employers were required to provide information. According to HCFA officials, the decision was made because the retrieval of records for earlier periods was

determined to constitute an unacceptable burden for employers, given the small number of ESRD beneficiaries involved. Because substantial overpayments could have been made, we believe that all ESRD beneficiaries should be included in the project. It is because of the small number of beneficiaries involved that we believe the employers' efforts would not be burdensome.

The HCFA officials "technically disagreed" with the recommendations on employer follow-up, funding, and contractor monitoring. They stated that the technical disagreement occurred because they had already planned a sample review, were in the process of establishing funding needs, and were developing a recovery tracking system, respectively. In our report, we acknowledged HCFA's initial efforts in each of these areas. Our recommendations were intended to build on the efforts that HCFA had in process, and ensure that progress is monitored and tracked through the extended period of the project as provided for in OBRA 1990. As summarized below, HCFA's additional actions appear responsive to our recommendations.

Regarding our recommendation to follow-up with employers who certified in Mailing A that they did not offer health plans, HCFA officials stated that they already had planned a sample review. They also stated that if significant discrepancies are found, they will expand their review.

Concerning our recommendation to adjust the funding request, HCFA officials stated that they are in the process of establishing funding needs for the project recoveries as part of their ongoing oversight responsibilities.

With reference to our recommendation to closely monitor recovery efforts of intermediaries and carriers, HCFA officials stated that they are currently developing the project recovery tracking system. This system will track intermediaries and carriers, including those that did not do an adequate job of recovering MSP overpayments in the past. They also stated that the system is part of their ongoing oversight of the project.

The HCFA's comments are presented in their entirety in the APPENDIX to this report.



Memorandum

MAY 15 1992

Date

From

William Toby, Jr.
William Toby, Jr.
Acting Administrator

Subject

To

OIG Draft Management Advisory Report: "Medicare as a Secondary Payer - Review of the Health Care Financing Administration's (HCFA) Efforts to Implement the Data Match Project" (A-09-91-00103)

Inspector General
Office of the Secretary

We have reviewed the above-referenced draft management advisory report which presents the results of **OIG's** review of **HCFA's** ongoing implementation of the Data Match project. The Data Match project requires data matches and employer contact to identify beneficiaries covered by employer group health plans (EGHP).

As we discussed in our meetings with **OIG**, we have already taken actions to implement many of the recommendations. However, we disagree with **OIG's** recommendation to include End Stage Renal Disease (ESRD) beneficiaries with dates of entitlements prior to February 1, 1986, in future data matches (Recommendation 2). We believe that doing so would impose an unacceptable burden on employers given the extremely small number of individuals who have ESRD and who were identified in the data match. Furthermore, the discussions with Congressional staff that preceded the **enactment** of the **IRS/SSA** data match focused on how the match would be used to identify working aged situations. Requiring employers to provide information on **ESRD** beneficiaries whose entitlement began prior to 1987 would, therefore, be controversial with Congress. We agree with the intent of Recommendation 3 to increase the contractors' Medicare Secondary Payer savings goals as a result of the identification of new beneficiaries with EGHP coverage. However, we are unable to project savings resulting from the data match at this time. Our detailed comments are attached.

Thank you for the opportunity to review and comment on this draft management advisory report. Please advise us whether you agree with our position on the report's recommendations at your earliest convenience.

Attachment

Comments of the Health Care Financing Administration (HCFA)
on OIG's Draft Management Advisory Report:
Medicare Secondary Payer (MSP) - Review
of HCFA's Efforts to Implement the Data Match Project
(A-09-91-00103~

Recommendation 1

Establish detailed procedures for the imposition of Civil Monetary Penalties (CMP) and take action on employers that fail to provide the necessary Employer Group Health Plan (EGHP) information.

HCFA Response

We agree, in principle, with this recommendation. As outlined below, we have procedures in place for the imposition of **CMPs**. However, responsibility for CMP is still under discussion between HCFA and OIG.

Group Health Incorporated, the Data Match contractor, has sent out almost 1,000 copies of Mailing D. Mailing D is a first notice to employers that their responses to the Data Match request are overdue. It informs employers they may be subject to **CMPs** if they continue to be unresponsive. If an employer does not respond to Mailing D, Mailing E will be sent to notify the employer that it is being referred for imposition of a CMP.

We have not yet sent copies of Mailing E; however, we do have procedures to refer CMP cases. HCFA does not have delegated authority to administer the actual CMP process.

Recommendation 2

Include in future data matches End Stage Renal Disease (ESRD) beneficiaries with dates of entitlement prior to February 1, 1986.

HCFA Response

We disagree. If the beneficiary's ESRD coordination period ended before December 31, 1986, she/he was excluded from the universe of individuals for whom employers were required to provide information. This decision was made

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because retrieving records for earlier periods was determined to constitute an unacceptable burden for employers given the extremely small number of individuals who have ESRD and who were identified in the Data Match.

ESRD beneficiaries who began their coordination period on February 1, 1986, or later, are included in the match. In the Data Match output file of 8.9 million beneficiaries, 56,000 or 0.6 percent are ESRD beneficiaries.

Recommendation 3

Increase the contractors' Medicare as Secondary Payer (MSP) savings goals as a result of the identification of new beneficiaries with EGHP coverage.

HCFA Response

We agree with the intent of this recommendation. However, we are unable to project savings resulting from the Data Match at this time because not enough data have been received and verified to provide a valid base from which to make projections.

Recommendation 4

Perform the necessary **followup** with employers who certified in Mailing A that they did not offer health plans.

HCFA Response

Technically, we disagree since we have, on our own initiative, planned a sample review of those employers who certified they did not offer health plans. If significant discrepancies are found in that sample, we will expand the review.

Recommendation 5

Adjust the funding request for collection actions, as appropriate, once the significance of the potential overpayments identified by the project is known.

HCFA Response

Technically, we disagree since we are in the process of establishing the funding needs for Data Match recoveries based on initial data provided by the designated contractor. This activity is part of our ongoing oversight of this project.

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Recommendation 6

Closely monitor the recovery efforts of the intermediaries and carriers, especially those contractors that did not do an adequate job of recovering MSP overpayments in the past.

HCFA Response

Technically, we disagree since we are currently developing the Data Match recovery tracking system. The recovery tracking system will produce a report of every potential mistaken payment by a contractor. The report will allow us to monitor the efforts of all contractors, including those that previously have not done an adequate job of recovering MSP overpayments. This activity is also a part of our ongoing oversight of this project.